

REMARKS

Claims 7-63 were previously pending. By this response, Applicant amends claims 7, 24, and 43 and cancels claim 63. As a result, claims 7-62 are pending with claims 7, 24, 43, and 62 being independent claims. No new matter is added.

Rejections Under 35 U.S.C. § 103 Are Overcome

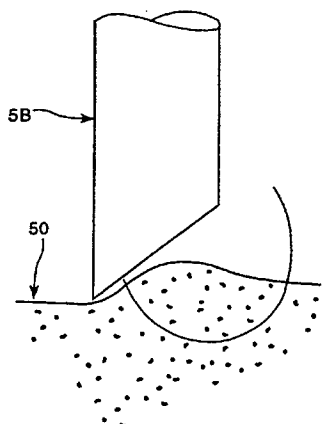
Claims 7-16, 18-35, 37-42, and 62 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Atala (US 5,571,119) in view of Mericle (US 5,752,964). Claims 17, 36, and 43-61 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Atala and Mericle in further view of Gordon (US 5,741,277).

Independent Claim 7

As amended, independent claim 7 recites, among other features, a passageway and an opening arranged so that suture wire extends substantially in a distal direction upon exiting the opening.

Applicant copies below FIG. 12 of the present application, which shows how suture wire may extend substantially in a distal direction upon exiting an opening of a suturing instrument. Claim 7 is amended to highlight this feature.

FIG. 12



Atala, on the other hand, includes a port 93, which the Examiner has equated with the opening of claim 7, as shown in FIG. 8 of Atala (copied below for convenience). The port of Atala would appear to direct suture material in a direction other than the distal direction, such as sideways, at least if the device of Atala were to plastically deform suture wire, as suggested by the Examiner (Applicant does not concede that Atala is capable of plastically deforming suture wire). In this respect, Atala does not teach or disclose suture wire extending substantially in a distal direction upon exiting the opening, as claim 7 is amended to recite. Mericle fails to satisfy this deficiency of Atala.

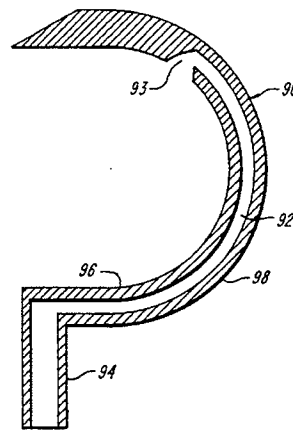


FIG. 8

For at least the above reason, the rejection of claim 7 and any claims depending therefrom, is overcome. Accordingly, withdrawal of these rejections is respectfully requested.

Independent Claim 24

As amended, independent claim 24 recites a distal end of a shaft having an opening with a lateral radius of curvature. A passageway and the lateral radius of curvature are constructed and arranged so that, when moved in the passageway, suture wire exits the opening and loops back to the distal end of the shaft along a helical trajectory and without requiring additional contact with the instrument to form an annular fastener. Support for these amendments may be found at least in paragraph 0025 of the present application.

Atala fails to disclose a shaft having an opening with a lateral radius constructed and arranged to direct suture wire along a helical trajectory. Mericle fails to satisfy this deficiency of Atala. For at least this reason, the rejection of claim 24 and any claims depending therefrom, is overcome. Accordingly, withdrawal of these rejections is respectfully requested.

Independent Claim 43

As amended, independent claim 43 recites a passageway having an “S” shaped portion arranged so that suture wire moving through the “S” shaped portion and exiting the opening forms a wire suture loop. Claim 43 also recites a cutter that includes a part of the “S” shaped portion of the passageway.

Neither Atala, Mericle, nor Gordon, whether taken individually or even if combined, teach or disclose a cutter that includes a part of an “S” shaped portion of a passageway, as recited by claim 43. For at least this reason, the rejection of claim 43 and any claims depending therefrom, is overcome. Accordingly, withdrawal of these rejections is respectfully requested.

Independent Claim 62

Independent claim 62 relates to a method of forming a loop suture. The method includes, among other aspects, bending the suture wire in a passageway to form a suture wire loop with suture wire that exits a distal end of a suturing instrument. The suture wire loop is formed without requiring further contact of the instrument with the suture wire after the suture wire extends from the distal end of the suturing instrument.

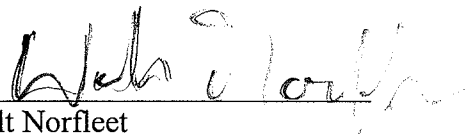
In the Office Action, it is stated that claim 62 encompasses the same invention of claim 7, such that Atala reads on claim 62. Applicant respectfully disagrees. Initially, Applicant points out that independent claims 7 and 62 are separate independent claims, each associated with a separate invention. Applicant also respectfully points out that claim 62 is a method claim, and that nowhere does Atala actually disclose the method of bending suture wire in a passageway to form a suture wire loop with suture wire that exits a distal end of a suturing instrument, the suture wire loop being formed without requiring further contact of the instrument with the suture wire after the suture wire extends from the distal end of the suturing instrument, as recited by claim 62. Mericle fails to

satisfy this deficiency of Atala. For at least this reason, the rejection of claim 62 is overcome. Accordingly, withdrawal of this rejection is respectfully requested.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

By 
Walt Norfleet

Registration No.: 52,078

WOLF, GREENFIELD & SACKS, P.C.

Federal Reserve Plaza

600 Atlantic Avenue

Boston, Massachusetts 02210-2206

617.646.8000